THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NO.9918 OF 2005

DISPOSED OF ON 13-12-2005

BETWEEN:

SMT.BOMMADEVARA MALATHI DEVI AND

OTHERS … PETITIONERS

AND

GOVT. OF A.P. AND OTHERS … RESPONDENTS

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O R D E R :

1. Notice dated 2.9.2004 issued in Form No.II (Rule 34) and endorsement dated 17.2.2005 are under challenge in this writ petition.

2. The writ petitioners claim that they are the title holders and owners of an extent of Ac.727-08 cents of land comprising S.Nos.1,2,3-part, 9-part, 10, 14, 15-part, 16 and 17-part of Chinna Gollapalem village, Krithivennu Mandal, Krishna District. The said extent forms part and parcel of total extent of Ac.1600-00 cents which is an estate of Gollapalem, Krishna District.

3. Earlier the petitioners filed W.P.No.10327 of 1994 seeking a direction to the respondents therein to implement the orders passed by the Assistant Settlement Officer, Eluru in S.R.No.19/52 (Bandar) under section 15(1) of A.P.Estate (Abolition and Conversion into Ryotwari) Act, 1948. The said writ petition came to be disposed of on 28.3.1995 with the followingdirection:

> " For the foregoing reasons, the petitioners are directed to file a petition before the Mandal Revenue Officer, Kruthivennu Mandal, that is the fourth respondent within four weeks from today along with the copies of the order of the Assistant Settlement Officer in S.R.nO.19/52 (Bandar) dated 8.3.1962, order of the appellate court in Appeal Suite No.4 of 1962 and 17 of 1964 dated 26.6.1972 and the judgment passed in the Writ Petition No.8078 of 1973 dated 22.9.1975. On filing of such petition, the respondent No.4 that is Mandal Revenue Officer, Kruthivennu of Krishna District is directed to conduct an enquiry and pass orders according to law within two weeks thereafter and serve a copy of the order on the petitioners. In the mean time, the parties to this writ petition shall maintain status quo as on today regarding the possession of lands in question. The writ petition is accordingly disposed of with no orders as to costs."

In pursuance of the above direction, the Mandal Revenue Officer, Kruthivannu

issued proceedings on 10.5.1995 directing the Mandal Surveyor to incorporate necessary changes in adangals of Chinagollapalam village .

4. Subsequently, the writ petitioners filed an application for demarcation of their lands and fixing the boundries. While so, the Revenue Divisional Officer, Bandar, issued notice in Form-III under Rule 3(4) A.P.Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 to the petitioners directing them to furnish declarations u/s 8(2) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. The Revenue Divisional Officer, Bandar also issued endorsement dated 17.2.2005 which reads as under:

" Sri.G.Krishna Murthy, Advocate, Hyderabad is hereby informed that the request of their clients smt.Bommadevara Malathi Devi and 2 others for issue of Pattedar Pass Books under ROR Act cannot be considered now as per Section 5 of A.P. Rights in land and Pattedar Pass Book Act, 1971 as their case is pending APLR (COAH) Act, 1973 and action will be taken to consider their request soon after the finalization of the case and they are advised to file a declaration u/s 18 of A.P.L.R. (COAH) Act from them as instructed from this office Rc.B.532/2001, dt.27.9.2004."

Assailing the notice as well as the endorsement, the petitioners have filed this writ petition invoking the jurisdiction of this Court under Art.226 of the Constitution of India.

5. Respondents filed counter affidavit. It is stated in the counter affidavit that the husband of 1st petitioner was granted patta by the then Assistant Settlement Officer, Eluru under section 12 and 15(1) of Estate Abolition Act and the same became final. Pursuant to the orders passed in W.P.No.10327 of 1994 the names of the petitioners were recorded as landholders to the lands in respect of Survey Nos.1,2,3-part, 9-part, 10-part, 14-part, 16-part and 17-part in Chinnagollapalem village by an order dated 10.5.1995 issued by the Mandal Revenue Officer. As the petitioners are holding more than the ceiling limit they are duty bound to file a declaration under A.P.Land Reforms (COAH) Act, 1973. The Revenue Divisional Officer, Bandar by a notice dated 2.9.2004 directed the petitioners to submit their declaration under sub-

section 2 of section 18 of A.P.Land Reforms (COAH) Act, 1973.

6. A reply affidavit also has been filed by the petitioners.

7. Heard learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for the respondents.

8. Learned counsel appearing for the petitioners submits that unless demarcation of the lands for which patta has been granted to the petitioners by the Assistant Settlement Officer is made, the petitioners are not under obligation to file any declaration under A.P.Land Reforms (COAH) Act, 1973. He vehemently contents that unless the proceedings initiated under the Estate Abolition Act reached finality, the petitioners cannot be compelled to file declaration under A.P.Land Reforms (COAH) Act, 1973. What he means to say is that the authorities under the Estate Abolition Act have to fix the boundries of the land for which patta has been granted by the Assistant Settlement Officer and thereupon the petitioners are required to file declaration under A.P.Land Reforms (COAH) Act, 1973.

9. Learned Government Pleader for Revenue appearing for the respondents submits that since the petitioners are pattedars for an extent of Ac.728-08 cents, they are under obligation to file declarations and therefore the notice and endorsement issued by the Revenue Divisional Officer, Bandar are legal and proper and they are not required to be interfered in this writ petition.

10. It is the case of the petitioners that unless the lands for which patta has been granted by the Assistant Settlement Officer in their favour are demarcated, they are not under the obligation to file any declaration under A.P.Land Reforms (COAH) Act, 1973. The proceedings under A.P.Land Reforms (COAH) Act and the proceedings under Estate Abolition Act cannot be clubbed together and they are distinctive. Once patta has been granted by the Assistant Settlement Officer, the petitioners are deemed to be owners and thereby they are under an obligation to file the

declaration. In that view of the matter, I do not see any flaw in the notice and the endorsement issued by the Revenue Divisional Officer, Bandar.

11. At this juncture, the learned counsel appearing for the petitioners sought for time to the petitioners for filing declarations under A.P.Land Reforms (COAH) Act.

12. Accordingly, this writ petition is disposed of permitting the writ petitioners to file their declarations within four weeks from the date of receipt of a copy of this order. The petitioners are at liberty to make an application to the appropriate authority for demarcation of their lands for which patta has been granted. No costs.

Dt: 13-12-2005. (B.Seshasayana Reddy,J)

tnb

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